

JS 44 (Rev. 04/21)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Shaun Duran, Monica Fischetti Palmieri Williams, Erdem Yildiz, Coral Gonzalez-Inza and Yohanna Geroges

(b) County of Residence of First Listed Plaintiff **BERNALILLO**

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Sovereign Hagar
301 Edith Blvd. NE, Albuquerque, NM 87102

DEFENDANTS

New Mexico Department of Workforce Solutions and Sarita Nair

County of Residence of First Listed Defendant **BERNALILLO**

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Gregory Lauer & Andrea Christman
401 Broadway Blvd. NE, Albuquerque, NM 87102

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

State due process claims made against state government agency

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

May 12, 2023

FOR OFFICE USE ONLY

SIGNATURE OF ATTORNEY OF RECORD

Andrea Christman

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SHAUN DURAN, MONICA FISCHETTI
PALMIERI WILLIAMS, ERDEM YILDIZ,
CORAL GONZALEZ-INZA, and YOHANNA
GERGES, on behalf of themselves and others
similarly situated,

Plaintiffs,

Federal Court Case No. _____

v.

State Court Case No. D-101-CV-2023-00698

NEW MEXICO DEPARTMENT OF
WORKFORCE SOLUTIONS, an executive
Agency, and SARITA NAIR, in her official capacity
As secretary of the New Mexico Department
of Workforce Solutions,

Defendants.

**NOTICE OF REMOVAL OF STATE COURT ACTION
TO UNITED STATES DISTRICT COURT**

TO: THE HONORABLE CLERK OF THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW MEXICO

PLEASE TAKE NOTICE THAT New Mexico Department of Workforce Solutions and Sarita Nair (*collectively* “Defendants”) hereby remove to this Court the state court action described herein, pursuant to 28 U.S.C. §§ 1331, 1441(a), 1443, 1446 and 1453. Pursuant to this Court’s Local Rule D.N.M.LR-Civ. 81.1, legible copies of records and proceedings from the state court action are also being filed with the Clerk within 28 days of the filing of this Notice of Removal.

Grounds for Removal

1. This Notice relates to a Class Action Complaint for Violations of Civil Rights and for Declaratory and Injunctive Relief (*hereinafter* “Complaint”) filed by Plaintiffs Shaun Duran, Monica Fischetti, Palmieri Williams, Erdem Yildiz, Coral Gonzalez-Inza, and Yhanna Gerges, on behalf of themselves and others similarly situated. The state-court case number is D-101-CV-2023-00698. The

Defendants are the New Mexico Department of Workforce Solutions (“NMDWS”), an executive state agency, and Sarita Nair, in her official capacity as secretary of NMDWS.

2. Both Defendants were served by Plaintiffs with a summons and the initial pleading in state court (“Complaint”) setting forth the claim for relief upon which the action is based on April 13, 2023, as shown by the attached returns of service. *Exhibits A and B*.

3. Therefore, this Notice of Removal is timely filed. 28 U.S.C. § 1446(b)(1) (“The notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise...”).

4. Both Defendants consent to the removal of the state-court action to this Court. 28 U.S.C. § 1446(b)(2)(A).

5. The state court action concerns the state of New Mexico’s administration of portions of the federal Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), which implemented a variety of programs to address the COVID-19 pandemic. *See generally* Pub. L. No. 116-136, 134 Stat. 281 (Mar. 27, 2020); *see also* Pub. L. No. 116-260, 134 Stat. 1182 (Dec. 27, 2020) (the “Continued Assistance Act,” which continued many of the CARES Act programs by adding new phases, new allocations, and new federal guidance to address issues related to the continuation of the COVID-19 pandemic.).

6. Among other things, the CARES Act:

- a. expanded UC eligibility to individuals who would ordinarily not qualify for such benefits, namely, self-employed individuals or those with limited recent work history, a program called Pandemic Unemployment Assistance (“PUA”);
- b. provided for up to 13 weeks of additional unemployment compensation (UC) benefits for individuals who had exhausted their entitlement to regular state UC or

PUA benefits, a program called Pandemic Emergency Unemployment Compensation (“PEUC”); and

- c. increased UC benefits payable to individuals receiving benefits under one of several UC programs by \$600 per week through July 31, 2020, and after that date by \$300 per week through September 4, 2021, a program called Federal Pandemic Unemployment Compensation (“FPUC”).

This is a partial list of the UC provisions under the CARES Act. A complete listing of the UC programs affected by the Act can be found in Exhibit B, attached.

7. In the state-court case the Plaintiffs allege that Defendant New Mexico Department of Workforce Solutions (“NMDWS” or “Department”), in implementing the UC provisions of the CARES Act, “failed to fully cooperate with the [United States] secretary of labor in multiple ways.” Complaint, ¶ 312.

8. Plaintiffs’ “well-pleaded Complaint” alleges the following examples of NMDWS’ lack of cooperation with the US labor secretary:

- a. Plaintiffs accuse the Department of noncompliance with “Unemployment Insurance Program Letters” (“UIPLs”)—guidance issued by the United States Department of Labor (“USDOL”)—described by Plaintiffs as “directives that set forth the [USDOL] secretary’s interpretation of federal statutes and regulations governing unemployment insurance benefits.” *Id.*, ¶ 310.
- b. Plaintiffs allege the Department failed to comply with UIPL No. 20-21, which advises “states of appropriate circumstances for assessing a monetary fraud penalty and for assessing interest and other collection costs on benefit

overpayments created under the CARES Act.” Unemployment Insurance Program Letter No. 20-21 at 1.

- c. Plaintiffs allege that NMDWS violated federal laws pertaining to the CARES Act, including 20 C.F.R. § 625.14(f) and 15 U.S.C. § 9021(h) (pertaining to recoupment of overpaid PUA benefits).
- d. Plaintiffs allege that NMDWS breached its Agreement with USDOL for implementing the relief for workers affected by Coronavirus Act, specifically a term therein requiring NMDWS was to “abide by the requirements in the statute, operating instructions and guidance, and program specific addendum attached to [the] Agreement.” Exhibit C.

9. Plaintiffs assert five causes of action against NMDWS in their state-court Complaint. Count I alleges Plaintiffs’ due process rights under the New Mexico Constitution were violated; Count II alleges the New Mexico State Rules Act and Workforce Solutions Act were violated; Count III alleges violations of the New Mexico Unemployment Compensation Act; Count IV alleges breach of contract; and Count V alleges the Department’s efforts to recoup overpaid federal UC benefits are barred by equitable estoppel.

10. Count I is predicated upon Plaintiffs’ view that NMDWS’ alleged noncompliance with federal directives and interpretations of the CARES Act (including UIPLs) resulted in a deprivation of property without due process of law under the New Mexico Constitution. Complaint, ¶¶ 293 to 298.

11. Count II is predicated on Plaintiffs’ view that the Department failed to promulgate agency rules regarding waivers of federal pandemic benefits and has “allowed for a narrower category of

waivers than the categories authorized by the federal government” under the CARES Act. Complaint, ¶ 305.

12. Count III is predicated upon Plaintiffs’ view that NMDWS “fail[ed] to fully cooperate” with the Secretary of Labor in its implementation of the CARES Act by not complying with federal statutes, regulations and directives in the form of UIPLs, which Plaintiffs attempt to characterize as a violation of NMSA 1978, § 51-1-31. Complaint, ¶¶ 307 to 314.

13. Count IV is predicated on Plaintiffs’ view that NMDWS breached its contract with USDOL by failing to comply with requirements in federal statutes, operating instructions and guidance by USDOL. Complaint, ¶¶ 315 to 320.

14. Defendants dispute all counts pleaded in the Complaint.

15. A federal district court has “original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. Federal-question jurisdiction exists when a “federal question is presented on the face of the plaintiff’s properly pleaded complaint.” *Jaramillo v. Frewing*, 347 F.Supp.3d 827, 840 (D.N.M. Aug. 28, 2018) (internal quotation marks and citations omitted). Federal-question jurisdiction exists where a federal law creates the cause of action pleaded in the complaint, but it *also* exists where “it appears that some substantial, disputed questions of federal law is a necessary element of one of the well-pleaded state claims.” *Nicodemus v. Union Pacific Corp.*, 318 F.3d 1231, 1236 (10th Cir. 2003) (citations omitted).

16. In this case, four (4) out of the five (5) counts pleaded by Plaintiffs are entirely dependent on substantial, disputed questions of federal law relating to federal pandemic benefits under the CARES Act and USDOL’s standards for the recoupment of overpaid federal benefits.

17. Although the CARES Act and Continued Assistance Act authorize waivers of overpayments in the PUA, FPUC, MEUC and PEUC programs, *see* 28 U.S.C. §§ 2102(d)(4),

2104(f)(2) and 2107(e)(2), New Mexico's UC statutes stand in stark contrast to their federal counterparts. States may waive overpayments of federal UC benefits when the payment of compensation was without fault of the claimant and repayment would be "contrary to equity and good conscience." *See e.g.*, § 2107(e)(2). New Mexico has no such statutory provision with respect to state UC benefits and overpayments. On the contrary, the "[New Mexico Department of Workforce Solutions] has a statutory duty to recover benefits paid to claimants later found to be ineligible or disqualified." *Millar v. New Mexico Dept. of Workforce Solutions*, 2013-NMCA-055, ¶ 20; *see also New Mexico Dept. of Workforce Solutions v. Garduño*, 2016-NMSC-002, ¶ 37 ("Department has the legal right to recoup overpaid benefits, even those benefits mistakenly overpaid by the Department.") (citations omitted); *see also* NMSA 1978, § 51-1-38(H) (2021) ("Any person who has received benefits as a result of a determination or decision of the department or any court that the person was eligible and not disqualified for such benefits and such determination or decision is subsequently modified or reversed by a final ...or who has received benefits as a result of administrative error or for any other reason while conditions for the receipt of benefits imposed by the Unemployment Compensation Law were not fulfilled in the person's case or while the person was disqualified from receiving benefits, *irrespective of whether such overpayment of benefits was due to any fault of the person claiming benefits*, shall...either be liable to have such sum deducted from any future benefits payable to the person under the Unemployment Compensation...or be liable to repay to the department...a sum equal to the amount of benefits received by the person...) (previously § 51-1-38(F) (1993) (emphasis added).

18. Any overpayment of state UC benefits, regardless of fault of the person claiming benefits, "shall" be repaid to the state. NMDWS has no discretion to forego seeking recoupment of overpaid

state benefits. *Millar*, ¶ 24. There is no body of state UC law applicable to granting or denying of federal overpayment waivers.

19. Plaintiffs' extensive reliance on federal standards for establishing and waiving overpayments, *see e.g., Complaint*, ¶¶ 39-60, makes this case appropriate for removal to federal court. Although Plaintiffs assert state-law claims, their claims are intricately intertwined with substantial, disputed questions of federal law. Removal will ensure consistency in the interpretation and application of the relevant federal statutes, regulations and guidance upon which Plaintiffs chiefly rely. Federal-question jurisdiction pursuant to 28 U.S.C. § 1331 is established.

20. Moreover, the federal government's imposition of onerous requirements with respect to administration of federal pandemic benefits programs, combined with USDOL's inadequate guidance regarding same, raises important issues of federalism. Federal courts have the authority to interpret and enforce the Constitution, federal laws, and regulations, making them well-suited to handle cases that raise questions about federalism. These courts provide a neutral and specialized forum for resolving disputes related to the balance of power between the federal and state governments. Furthermore, federal courts have the advantage of providing consistent interpretation and application of federal law throughout the country. This helps in maintaining uniformity and predictability in the legal system when federalism issues arise across different states or jurisdictions.

WHEREFORE, Defendants respectfully give notice that the above-captioned civil action pending in the First Judicial District Court for the State of New Mexico is removed to this Court pursuant to 28 U.S.C. §§ 1331, 1441(a), 1443, 1446 and 1453.

NEW MEXICO DEPARTMENT
OF WORKFORCE SOLUTIONS



GREGORY LAUER
GENERAL COUNSEL
ANDREA CHRISTMAN
DEPUTY GENERAL COUNSEL
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Phone: (505) 841-8471
Fax: (505) 841-9024
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andrea.christman@dws.nm.gov

CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2023, true and correct copies of the foregoing Notice of Removal were served on the parties indicated below by first-class U.S. mail and electronic mail:

Sovereign Hager
Stephanie Welch
Felipe Guevara
New Mexico Center on Law and Poverty
301 Edith Blvd. NE
Albuquerque, NM 87102
(505) 255-2840
sovereign@nmpovertylaw.org
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Attorneys for Plaintiffs

-And-

Laura Schauer Ives
Adam C. Flores
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adam@nmcivilrights.com
martha@nmcivilrights.com
Attorneys for Plaintiffs


GREGORY LAUER, ESQ.

FILED 1st JUDICIAL DISTRICT COURT
Santa Fe County
4/21/2023 11:50 AM
KATHLEEN VIGIL CLERK OF THE COURT
Gloria Landin

SUMMONS

District Court: First Judicial District
Santa Fe County, New Mexico

Court Address: 225 Montezuma Ave., Santa Fe, NM
87501

Court Telephone Number: 505-455-8250

Case Number: D-101-CV-2023-00698

Judge: ~~Kathleen McGarry Ellenwood~~
Sanchez-Gagne, Maria

Plaintiff: Shaun Duran, Monica Fischetti Palmieri
Williams, Erdem Yildiz, Coral Gonzalez-Inza, and
Yohanna Gerges, on behalf of themselves and
others similarly situated,

v.

Defendants: New Mexico Department of Workforce
Solutions, an executive agency, and Sarita Nair, in her
official capacity as secretary of the New Mexico
Department of Workforce Solutions

Defendant

Name: New Mexico Department of
Workforce Solutions

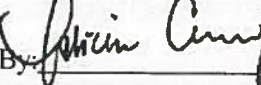
Address: 401 Broadway Blvd. NE,
Albuquerque, NM 87102

TO THE ABOVE NAMED DEFENDANT(S): Take notice that

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6227; or 1-505-797-6066.

Dated at Santa Fe, New Mexico, this 5th day of April, 2023.

KATHLEEN VIGIL
CLERK OF COURT

By: 
Deputy



Attorney for Plaintiff

Name: Felipe Guevara

Address: 301 Edith Blvd NE
Albuquerque, NM 87102

Telephone No.: 505-255-2840

felipe@nmpovertylaw.org

THIS SUMMONS IS ISSUED PURS
RULES OF CIVIL PROCEDURE FO

NMRA OF THE NEW MEXICO



STATE OF NEW MEXICO)
)ss
COUNTY OF BERNALILLO)

RETURN

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in Bernalillo County on the 13 day of April, 2023, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

(check one box and fill in appropriate blanks)

☐ to the defendant _____ (used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint)

☒ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (used when service is by mail or commercial courier service).

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

☐ to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, (used when the defendant is not presently at place of abode) and by mailing by first class mail to the defendant at _____ (insert defendant's last known mailing address) a copy of the summons and complaint.

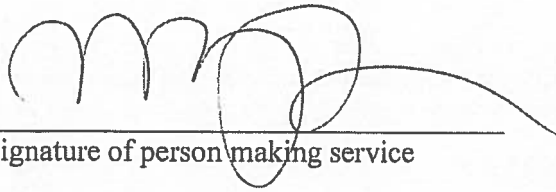
☐ to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ (insert defendant's business address) and by mailing the summons and complaint by first class mail to the defendant at _____ (insert defendant's last known mailing address).

☐ to _____, an agent authorized to receive service of process for defendant _____.

☐ to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant _____ (used when defendant is a minor or an incompetent person).

☐ to _____ (name of person), _____, (title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision)

Fees: \$ 24.00



Signature of person making service

Paralegal

Title (if any)

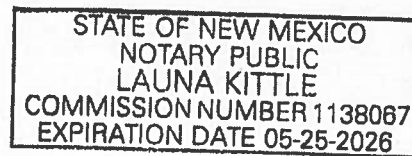
Subscribed and sworn to before me this 20 day of April, 20²³

Launa Kittle

Judge, notary or other officer
authorized to administer oaths

Notary Bernalillo County

Official title



USPS TRACKING #



ALBUQUERQUE NM 870

18 APR 2023 PM 2 L

9590 9402 8086 2349 0630 85


First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

New Mexico Center on Law & Poverty
Attn: Felipe Guenaa
301 Edith Blvd. NE
Albuquerque, NM 87102



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>	<p>A. Signature X <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>
<p>1. Article Addressed to:</p> <p>New Mexico Dept. of Workforce Solutions 401 Broadway Blvd. NE Albuquerque, NM 87102</p>  <p>9590 9402 8086 2349 0630 85</p>	<p>B. Received by <i>[Signature]</i></p> <p>C. Date of Delivery 4.13.23</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>
<p>2. Article Number (Transfer from service label)</p> <p>7021 0950 0002 0425 5044</p>	<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery</p> <p><input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input checked="" type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Mail Restricted Delivery</p>
<p>PS Form 3811, July 2020 PSN 7530-02-000-8053</p> <p style="text-align: right;">Domestic Return Receipt</p>	

FILED 1st JUDICIAL DISTRICT COURT
Santa Fe County
4/21/2023 11:50 AM
KATHLEEN VIGIL CLERK OF THE COURT
Gloria Landin

SUMMONS

District Court: First Judicial District
Santa Fe County, New Mexico

Court Address: 225 Montezuma Ave., Santa Fe, NM
87501

Court Telephone Number: 505-455-8250

Case Number: D-101-CV-2023-00698

Judge: ~~Kathleen McGarry Ellenwood~~
Sanchez-Gagne, Maria

Plaintiff: Shaun Duran, Monica Fischetti Palmieri
Williams, Erdem Yildiz, Coral Gonzalez-Inza, and
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v.

Defendants: New Mexico Department of Workforce
Solutions, an executive agency, and Sarita Nair, in her
official capacity as secretary of the New Mexico
Department of Workforce Solutions

Defendant

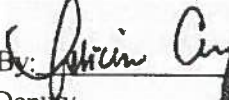
Name: Sarita Nair, in her official capacity
as secretary of the New Mexico Department
of Workforce Solutions

Address: 401 Broadway Blvd. NE,
Albuquerque, NM 87102

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2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6227; or 1-505-797-6066.

Dated at Santa Fe, New Mexico, this 5th day of April, 2023.
KATHLEEN VIGIL
CLERK OF COURT

By: 
Deputy



Attorney for Plaintiff

Name: Felipe Guevara

Address: 301 Edith Blvd. NE
Albuquerque, NM 87102

Telephone No.: 505-255-2840

Email: felipe@nmpovertylaw.org

THIS SUMMONS IS ISSUED PURSUANT TO THE
RULES OF CIVIL PROCEDURE FOR THE

EXHIBIT

B

RA OF THE NEW MEXICO

STATE OF NEW MEXICO)
)ss
COUNTY OF BERNALILLO)

RETURN

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in Bernalillo County on the 13 day of April, 2023, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

(check one box and fill in appropriate blanks)

☐ to the defendant _____ (*used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint*)

☒ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (*used when service is by mail or commercial courier service*).

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

☐ to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, (*used when the defendant is not presently at place of abode*) and by mailing by first class mail to the defendant at _____ (*insert defendant's last known mailing address*) a copy of the summons and complaint.

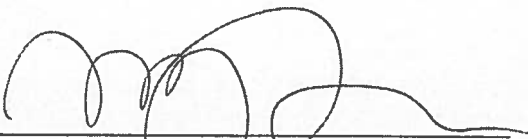
☐ to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ (*insert defendant's business address*) and by mailing the summons and complaint by first class mail to the defendant at _____ (*insert defendant's last known mailing address*).

☐ to _____, an agent authorized to receive service of process for defendant _____.

☐ to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant _____ (*used when defendant is a minor or an incompetent person*).

☐ to _____ (*name of person*), _____, (*title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision*)

Fees: \$24.00

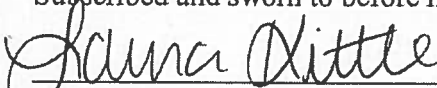


Signature of person making service

Paralegal

Title (if any)

Subscribed and sworn to before me this 20 day of April, 20²³



Judge, notary or other officer
authorized to administer oaths

Notary, Bernalillo

Official title

STATE OF NEW MEXICO NOTARY PUBLIC LAUNA KITTLE COMMISSION NUMBER 1138067 EXPIRATION DATE 05-25-2026

USPS TRACKING#



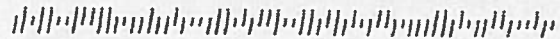
First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10


9590 9402 7981 2305 3946 65

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

NMCLP
Attn: Felipe Guevara
301 Edith Blvd. NE
Albuquerque, NM 87102



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature <i>Kenn Quinn</i> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>X</p>	
<p>1. Article Addressed to:</p> <p>Ms. Sarita Nair, in her official capacity as Sect. of DHS 401 Broadway Blvd. NE Albuquerque, NM 87102</p>  <p>9590 9402 7981 2305 3946 65</p>		<p>B. Received by (Printed Name) <i>Kenn Quinn</i> C. Date of Delivery 4.13.23</p>	
<p>2. Article Number (Transfer from service label)</p> <p>7021 0950 0002 0425 5037</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p>	
<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery</p> <p><input checked="" type="checkbox"/> Certified Mail®</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery</p>		<p><input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input checked="" type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	
<p>PS Form 3811, July 2020 PSN 7530-02-000-9053</p>		<p>Domestic Return Receipt</p>	